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Mira Holdings, Inc.

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF ARIZONA**

Mira Holdings, Inc., a Minnesota  
Corporation,

Plaintiff,

v.

A. Augis, a foreign corporation; and  
Arthus Bertrand, a foreign corporation;

Defendants.

Case No. \_\_\_\_\_

**COMPLAINT FOR:**

**1.) DECLARATORY RELIEF  
LANHAM ACT, 15 U.S.C.**

**§1114(2)(D)(iv) and §1125 (a) and**

**2.) REVERSE DOMAIN NAME  
HIJACKING ANTICYBERSQUATTING  
CONSUMER PROTECTION ACT,  
15 U.S.C. § 1114(2)(D)(v) and §1125(d)**

For its Complaint, Plaintiff Mira Holdings, Inc. (“Mira”) alleges as follows:

**NATURE OF THE CONTROVERSY/JUDISCTION/VENUE**

1. This is a civil action for Declaratory Judgment under the Lanham Act, 15 U.S.C. §§ 1114(a) and 1125(a); and reverse domain name hijacking in violation of the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1114(2)(D)(v) (the “ACPA”).

2. This Court has personal jurisdiction over Defendants as they have consented to jurisdiction by this court in selecting “Registrar” as “Mutual Jurisdiction” for resolution of this matter, in a Complaint filed with the World Intellectual Property Organization (WIPO) in accordance with Paragraph 3(b)(xii) of the Uniform Domain Dispute Resolution Policy (UDRP) of the International Committee of Assigned Names and Numbers (ICANN).

## PARTIES

5. On information and belief, Defendants, A. Augis and Arthus Bertrand, are French Corporations having a principal place of business in France.

8. Plaintiff is in the business of acquiring and using for lawful business purposes, various generic domain names as and when they become available, for leasing, sale or email services.

1           9.     The disputed Domain Name Augis.com was originally purchased by the  
2 Plaintiff for a cost of \$454 in 2014. Pursuant to its business plan, Plaintiff purchased and  
3 registered the domain name on or about July 7, 2014, in good faith at which time (and at  
4 all times subsequent thereto) Plaintiff believed and has had reasonable grounds to believe  
5 that the use of the domain name was a fair use or otherwise lawful, and has “parked” it  
6 with a reputable monetizer, Bodis.com, since acquisition. The Plaintiff does not exercise  
7 any control over the parking services provided by Bodis.com.

8           10.    Plaintiff's acquisition of the domain name Augis.com was subsequent to  
9 Defendants' abandonment of it in 2013 by failure to renew it. At no time in the eleven  
10 years since Defendant's own abandonment of the domain name has the Defendant  
11 claimed that such abandonment was unintentional. Plaintiff is entitled to rely upon  
12 Defendants' abandonment of the domain name and subsequent acquiescence therein for  
13 eleven years.

14           11.    Plaintiff is in the business of registering domain names and using them for  
15 email addresses or sale or lease; is the registrant of many domain names corresponding to  
16 non-distinctive and non-exclusive dictionary words, phrases, foreign words, and  
17 surnames and has accumulated over 1,000 domain names that are used in this manner.

18           12.    Plaintiff has registered similar first name or surname domain names for the  
19 same lawful purpose, including cavanagh.com, obermaier.com, buccelli.com, and  
20 harck.com, among others.

21           13.    On information and belief, Defendants possess no US trade or service mark  
22 rights in the term “AUGIS”.

23           14.    AUGIS is a non-distinctive and non-exclusive business name and surname  
24 used by many organizations, groups, and individuals.

25           15.    There are no trade or service marks registered under the Lanham Act with  
26 the United States Patent and Trademark Office consisting of or comprising the term  
27 “Augis”.  
28

1           16. The term “AUGIS” appears in various concurrently used internet domain  
2 names. For example, Augis.org is the website for the “Association of Upper  
3 Gastrointestinal Surgery” of Great Britain and Ireland organization. KarineAugis.com is  
4 an e-commerce website that sells “hand bags” and “luggage.” In addition,  
5 NicolasAugis.com is the professional website for Senior Software Developer, “Nicolas  
6 Augis”, thus demonstrating that various parties might seek to obtain the Augis.com  
7 domain name as a marketable commodity.

8           17. On Sept. 23, 2024, Defendants jointly filed a Complaint thereby initiating  
9 an administrative dispute proceeding against Plaintiff with the World Intellectual  
10 Property Organization (WIPO) in accordance with the Uniform Domain Name Dispute  
11 Resolution Policy (“UDRP”) adopted by the Internet Corporation for Assigned Names  
12 and Numbers (“ICANN”) against the Plaintiff for the domain name Augis.com. On or  
13 about Sept. 26th, 2024, the registrar of the domain name, GoDaddy.com “locked” the  
14 domain name, thereby prohibiting Plaintiff from utilizing the domain name in accordance  
15 with the uses typically enjoyed by a registrant of a domain name. The action to “lock” the  
16 domain name was in accordance with the UDRP and associated procedures.

17           18. As of the date of the filing of this complaint, the domain name continues to  
18 be “locked” pending the UDRP decision.

19           19. In the UDRP Complaint, the Defendants admit their objective is to obtain  
20 control of the Augis.com domain name which is the subject of a registration agreement  
21 with registrar GoDaddy.com in this judicial district.

22           20. Defendants’ initiation of the UDRP proceeding has caused the registrar to  
23 “lock” the domain name beyond the Plaintiff’s ordinary control of it, in this judicial  
24 district.

25           21. Plaintiff’s registration and use of Augis.com that may be legitimately  
26 marketed to any of the various parties who may desire to use it is a fair or otherwise  
27 lawful use of the domain name.  
28

1           22. Plaintiff was unaware of the Defendants or their foreign trademark claims  
2 at the time Plaintiff registered the domain name, and thus could not have registered the  
3 domain name in “bad faith” under 15 U.S.C. §1125(d).

4           23. Plaintiff reasonably believes its registration and use of the domain name is  
5 lawful under the Lanham Act and under the Anti-Cybersquatting Consumer Protection  
6 Act.

7           24. At no time, did the Plaintiff register or use the domain name Augis.com in  
8 “Bad Faith” as defined by 15 U.S.C. §1125.

9           25. Due to the lock imposed by the registrar in this judicial district, and the  
10 imminent threat of transfer of the domain name to the Defendants, Plaintiff has brought  
11 this action for a determination under 15 U.S.C. §1114(2).

12           26. This Court has subject matter jurisdiction under 15 U.S.C. §1114(2)(D)(v)  
13 to determine whether Plaintiff’s registration and use of Augis.com in this judicial district  
14 is lawful under the ACPA and the Lanham Act.

15           27. Based on the facts set forth herein, an actual controversy has arisen and  
16 now exists between Plaintiff and Defendant regarding whether or not Plaintiff’s use of  
17 the term Augis.com as its domain name infringes Defendant’s trademarks and/or  
18 constitutes trademark dilution and/or can serve as the basis for any relief under any  
19 Federal or state law.

20           28. At all times, Plaintiff utilized the domain name in a bona fide manner for  
21 bona fide purposes.

22           29. Plaintiff has not had any intent to divert consumers from the mark owner's  
23 online location to a site accessible under the domain name that could harm the goodwill  
24 represented by the mark, either for commercial gain or with the intent to tarnish or  
25 disparage the mark, by creating a likelihood of confusion as to the source, sponsorship,  
26 affiliation, or endorsement of the site.

27           30. Plaintiff has not provided material and misleading false contact information  
28 when applying for the registration of the domain name. Plaintiff did not fail to maintain

1 accurate contact information with respect to the domain name in question or with respect  
2 to any other domain name.

3 31. Plaintiff's use of Augis.com is a fair or otherwise lawful use of the term.

4 32. Because of the actions of Defendant, and its claims of trademark  
5 infringement and dilution, Plaintiff faces losing valuable rights in its Internet domain  
6 name.

7 **FIRST CLAIM FOR RELIEF**

8 **Declaratory Judgment**

9 **Lanham Act, 15 U.S.C. §§ 1114(2)(D)(v) & 1125(a)**

10 33. Plaintiff Mira incorporates by reference the factual allegations set forth in  
11 Paragraphs 7 through 31 above.

12 34. The ACPA, provides a cause of action for a registrant whose domain name  
13 has been suspended, disabled, or transferred by which the registrant may sue for a  
14 declaration that the registrant is not in violation of the Act and for an injunctive relief to  
15 the domain name registrant, including the reactivation of the domain name. 15 U.S.C. §  
16 1114(2)(D)(v).

17 35. Section 1114(2)(D)(v) provides a registrant who is threatened with the loss  
18 of its domain name under the UDRP with a cause of action for an injunction returning the  
19 domain name if the registrant can show that the registrant is in compliance with the  
20 ACPA.

21 36. Defendants, collectively or individually, do not possess trade or service  
22 mark rights under the Lanham Act and did not possess any such rights at the time  
23 Plaintiff registered the domain name.

24 37. Plaintiff did not register the domain name Augis.com with the bad faith  
25 intent to profit from the goodwill of defendant.

26 38. Plaintiff is entitled to have the unencumbered use of the domain name  
27 Augis.com and to have the domain name reactivated and to have any and all suspensions  
28 or transfers terminated and prohibited.

39. Unless this Court issues a Judgment that Plaintiff is entitled to maintain registration of its Domain Name, Augis.com, the threatened transfer of the Domain Name to Defendant will damage Plaintiff irreparably. Mira Holdings, Inc. has no adequate remedy at law.

40. Defendant's acts make this an exceptional case under 15 U.S.C. §1117(a), and Mira Holdings, Inc. is thus entitled to an award of attorney's fees and costs.

41. Alternately, Mira Holdings, Inc. is entitled to elect statutory damages instead of actual damages and profits, pursuant to 15 U.S.C. §1117 (d).

**SECOND CLAIM FOR RELIEF**  
**Anticybersquatting Consumer Protection Act (ACPA)**  
**15 U.S.C. § 1125(d) and § 1114(2)(D)**

42. Plaintiff Mira incorporates by reference the factual allegations set forth in Paragraphs 7 through 40 above.

43. 15 U.S.C. § 1114(2)(D)(iv) provides that when a registrar takes an action to transfer a domain name "based on a knowing and material misrepresentation by any other person that a domain name is identical to, confusingly similar to, or dilutive of a mark, the person making the knowing and material misrepresentation shall be liable for any damages, including costs and attorneys' fees, incurred by the domain name registrant as a result of such action."

44. Section 1114(2)(D)(v) provides a registrant may "file a civil action to establish that the registration or use of the domain name by such registrant is not unlawful under this Act." Under this section, a "court may grant injunctive relief to the domain name registrant, including the reactivation of the domain name or transfer of the domain name back to the domain name registrant."

45. Plaintiff Mira's registration and use of the domain Name Augis.com was not unlawful under Title 15, United States Code, § 1114(2)(D)(v) or §1125(d).

DATED: October 18, 2024.

David S. Gingras, Esq.  
Attorney for Plaintiff  
Mira Holdings, Inc.



**JURY DEMAND**

Demand for Jury Trial Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure,  
Plaintiff respectfully requests a trial by jury of all issues so triable.